UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
WINTER, JOHN M

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 May 2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-14,16-25 and 33-44* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-14,16-25 and 33-44* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *3/24/2006, 3/21/2007*.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Election/Restrictions

1.   Restriction to one of the following inventions is required under 35 U.S.C. 121:

I.   Claims 2-14, 16-25 and 33-44 are a system of providing content with a wireless

device, classified in class 705 subclass 1.

II.   Claim 30 is drawn to a system payment for content, classified in class 705

subclass 52.

Inventions I and II are related as combination and subcombination. Inventions in this

relationship are distinct if it can be shown that (1) the combination as claimed does not require

the particulars of the subcombination as claimed for patentability, and (2) that the

subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant

case, the combination as claimed in invention I does not require the particulars of the

subcombination as claimed in inventions II such as charging a payment.

Because these inventions are distinct for the reasons given above and have acquired a

separate status in the art as shown by their different classification, restriction for examination

purposes as indicated is proper.

Examiner notes that is would be a burden to search multiple inventions given their

separate status in the art as noted above.

The requirement is deemed proper and therefore made FINAL.

Via the paper filed on May 30, 2007 the Applicant has elected the examination of

invention I directed towards claims 2-14, 16-25 and 33-44. Affirmation of this election must be

made by applicant in replying to this Office action. Claim 30 is withdrawn from further

consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Acknowledgements

The Applicants amendment filed on May 30, 2007 is acknowledged, Claims 2-14, 16-25

and 33-44 remain pending .

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Response to Arguments

The Applicants arguments filed on September 28, 2006 have been fully considered.

The Applicant states that the prior art record fails to disclose the claimed feature of " at least information related to a description of the at least one content component and information needed by the wireless device to run the at least one content component".

The Examiner states that figure 5 of Watanabe et al (6084888) discloses the features of frame header, frame control information etc…the Examiner contends that this feature as discloses by Watanabe et al (6084888) is analogous to information *related* to a description of content etc..

The Applicant states that that the requisite suggestion or motivation to modify the references as proposed by the Examiner is lacking. The references themselves and/or the knowledge generally available to one of skill in the art does not provide the requisite motivation or suggestion to modify the reverences as proposed for purposes of 35 U.S.C. § 103(a).

Examiner responds that as per *Ex parte Clapp*, 227 USPQ 972 (Bd Pat App & Int) "To support conclusion that claimed combination is directed to obvious subject matter, the references must either expressly or impliedly suggest claimed combination or the examiner must present a convincing line of reasoning as to why artisan would have found claimed invention to have been obvious in light of the references teachings.", the Examiner states the reference deals with the generalized problem of conducting secure electronic commerce and therefore would be obvious to a person of ordinary skill in the art.

Furthermore the combination of these elements does not alter their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. See also *Ex parte Smith*, USPQ2d. slip op. at 20, (Bd Pat App & Int, 25 June 2007) (citing KSR, 82 USPQ2d at 1396)

See following rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-14, 16-25 and 33-44 are rejected under 35 U.S.C. 103 as being unpatentable

over Kaydyk et al (6209111) in view of either Ginter et al (5892900) or Watanabe et al

(6084888) .

Regarding claim 35, Kaydyk et al (See Figs. 7 and 11, Col. 1, lines 45-65, Col. 9, lines

50-65,) disclose a method for associating content with a data structure (header) in a wireless

communication device substantially as claimed. The differences between the above and the

claimed invention is the use of explicit data structure definition. It is noted that the claim appears

to read on all wireless packets with headers. It is further noted that metadata describes or defines

other data and is normally present as a constituent of complex header data. Each of Ginter et al

(See Figs 5b, 17, 20, 26-30, Col. 284, lines 15- 40) or Watanabe et al (See Fig. 5-7, 11-12 and

claims 1-11) show packets with complex headers in a wireless environment including metadata.

It would have been obvious to the person having ordinary skill in this art to provide a similar

arrangement for Kaydyk et al because packet headers are conventional functional equivalents of

the claim limitations; furthermore the combination of these elements does not alter their

espective functions, and the combination would have yielded predictable results to one of

ordinary skill in the art at the time of the invention..

Regarding the data limitations of claim 2, Ginter et al (See Figs 5b, 17, 20, 26-30) or

watanabe et al (see Fig. 5-7, 11-12 and claims 1-11) show packets with complex headers in a

wireless environment that are conventional functional equivalents of the claim limitations.

Regarding server limitations of claim 3, Kaydyk et al (See elements 12 or 16) disclose

web server equivalents that are conventional functional equivalent of the claim limitations.

Regarding storage limitations of claim 4, Kaydyk et al (See elements 59 and 61) disclose

storage that is conventional functional equivalent of the claim limitations.

Regarding the separate storage limitations of claim 5, Kaydyk et al (See Figs. 7 and 11,

Col. 1, lines 45-65, Col. 9, lines 50-65,) disclose a method for associating content with a separate

data structure (header) in a wireless communication device that are conventional functional

equivalents of the claim limitations.

Regarding definition limitations of claim 6, Ginter et al (See Figs 5b, 17, 20, 26-30) show

content definition within a complex packet header that is conventional functional equivalent of

the claim limitations.

Regarding charge limitations of claim 7, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes usage charge that is conventional functional equivalent of the claim limitations.

Regarding protection limitations of claim 8, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes copy protection that is conventional functional equivalent of the claim limitations.

Regarding the encryption limitations of claim 9, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes encryption that are conventional functional equivalents of the claim limitations.

Regarding content limitations of claim 10, Ginter et al (See Figs 5b, 17, 20, 26- 30) show multimedia content definition within a complex packet header that is conventional functional equivalent of the claim limitations.

Regarding executable limitations of claim 11, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet-header that includes executable code that is conventional functional equivalent of the claim limitations.

Regarding storage limitations of claim 12, Ginter et al (See Figs 5b, 17, 20, 26-30) show

content definition within a complex packet header that includes storage definition that is

conventional functional equivalent of the claim limitations.

Regarding classification limitations of claim 13 Ginter et al

(See Figs 5b, 17, 20, 26-30) show content definition within a

complex packet header that includes multimedia data classified by type that is conventional

functional equivalent of the claim limitations.

Regarding information limitations of claim 14, Ginter et al (See Figs 5b, 17, 20, 26-30)

show content definition within a complex packet header that includes new data that is

conventional functional equivalent of the claim limitations.

Regarding the data limitations of claim 16, Ginter et al (See Figs 5b, 17, 20, 26- 30) or

Watanabe et al (See Fig. 5-7, 11-12 and claims 1-11) show packets with complex headers in a

wireless environment that are conventional functional equivalents of the claim limitations.

Regarding server limitations of claim 17, Kaydyk et al (See elements 12 or 16) disclose

web server equivalents that are conventional functional equivalent of the claim limitations.

Regarding the separate storage limitations of claim 18, Kaydyk et al (See Figs. 7 and 11,

Col. i, lines 45-65, Col. 9, lines 50- 65,) disclose a method for associating content with a separate

data structure (header) in a wireless communication device that are conventional functional

equivalents of the claim limitations.

Regarding version limitations of claim 19, Ginter et al (See Figs 5b, 17, 20, 26-30) show

different content definition within a complex packet header that is conventional functional

equivalent of the claim limitations.

Regarding definition limitations of claim 20, Ginter et al (See Figs 5b, 17, 20, 26-30)

show content definition within a complex packet header that is conventional functional

equivalent of the claim limitations.

Regarding charge limitations of claim 21, Ginter et al (See Figs 5b, 17, 20, 26- 30) show

content definition within a complex packet header that includes usage charge that is conventional

functional equivalent of the claim limitations.

Regarding protection limitations of claim 22, Ginter et al (See Figs 5b, 17, 20, 26-30)

show content definition within a complex packet header that includes copy protection that is

conventional functional equivalent of the claim limitations.

Regarding the encryption limitations of claim 23, Ginter et al (See Figs 5b, 17, 20, 26-30)

show content definition within a complex packet header that includes encryption that are

conventional functional equivalents of the claim limitations.

Regarding classification limitations of claim 24 Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes multimedia data classified by type that is conventional functional equivalent of the claim limitations.

Regarding searching limitations of claim 25, Ginter et al (See Figs 5b, 17, 20, 26-30) show content definition within a complex packet header that includes pointers that is conventional functional equivalent of the claim limitations.

Regarding claim 33, Kaydyk et al (See Figs. 7 and ii, Col. i, lines 45-65, Col. 9, lines 50-65,) disclose a method for associating content with a data structure (header) in a wireless communication device substantially as claimed. The differences between the above and the claimed invention is the use of explicit data structure definition. It is noted that the claim appears to read on all wireless packets with headers. It is further noted that metadata describes or defines other data and is normally present as a constituent of complex header data. Each of Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) or Watanabe et al (See Fig. 5-7, 11-12 and claims 1-11) show packets with complex headers in a wireless environment including metadata and storage. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Kaydyk et al because packet headers are conventional functional equivalents of the claim limitations.

Regarding selection limitations of claim 36, Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) show content definition within a complex packet header that includes metadata and multimedia data classified by type that is conventional functional equivalent of the claim limitations.

Regarding content limitations of claims 37-42, Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) show content definition within a complex packet header that includes metadata, content descriptors, and multimedia data classified by type that is conventional functional equivalent of the claim limitations.

Regarding claim 43, Kaydyk et al (See Figs. 7 and 11, Col. 1, lines 45-65, Col. 9, lines 50-65,) disclose a means for associating content with a data structure (header) in a wireless communication device substantially as claimed. The differences between the above and the claimed invention is the use of explicit data structure definition. It is noted that the claim appears to read on all wireless packets with headers. It is further noted that metadata describes or defines other data and is normally present as a constituent of complex header data. Each of Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15- 40) or Watanabe et al (See Fig. 5-7, 11-12 and claims i-ii) show packets with complex headers in a wireless environment including metadata. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Kaydyk et al because packet headers are conventional functional equivalents of the claim limitations.

Regarding selection limitations of claim 44, Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) show content definition within a complex packet header that includes metadata and multimedia data classified by type that is conventional functional equivalent of the claim limitations.

Conclusion

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Winter whose telephone number is (571) 272-6713. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Patent Examiner -- 3621

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